UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
---X
                                                           :
SYNTEL STERLING BEST SHORES   :
MAURITIUS LIMITED, et al.,   :
                                                           :   15 Civ. 211 (LGS)
          Plaintiffs/Counterclaim-Defendants,   :
                                                           :   ORDER
                   -against-   :   (Defendants' MIL 3)
                                                           :
THE TRIZETTO GROUP, et al.,   :
                                                           :
          Defendants/Counterclaim-Plaintiffs.   :
-- X

LORNA G. SCHOFIELD, District Judge:

      Defendants/Counterclaim-Plaintiffs The TriZetto Group, Inc. and Cognizant Technology

Solutions Corp. (together, "Defendants") move *in limine* (Dkt. No. 697) for an adverse inference

instruction to address the failure of Plaintiffs/Counterclaim-Defendants Syntel Sterling Best

Shores Mauritius Limited and Syntel, Inc. (together, "Syntel") to produce test cases and

automation scripts during discovery.

      In addition to the Preclusion Order, Defendants seek an adverse inference instruction to

ensure that the jury does not believe that it must conclude that the absence of evidence -- Facets

test cases and automation scripts in Syntel's possession -- caused by Syntel's non-compliance

favors Syntel (*i.e.* that Syntel did not misappropriate Defendants' trade secrets).

      The motion is denied because the sanction set forth in the Preclusion Order is sufficient;

it prevents Syntel from offering or presenting any evidence (1) that it did not misappropriate and

unlawfully copy Defendants' Facets test cases and automation scripts and (2) that it

independently developed any of the Platform Management Tools at issue in this case.
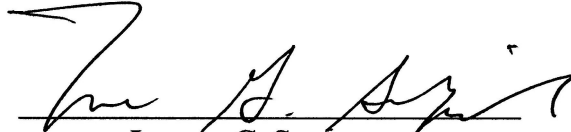
Defendants are free to argue to the jury that Syntel has not presented any such evidence, and Syntel may not challenge the assertion.

Syntel shall not argue that any failure by Defendants to introduce evidence from Syntel's files suggests that Syntel did not misappropriate and unlawfully copy Defendants' test cases and automation scripts. Should Syntel do so, Defendants may renew this motion.

For these reasons, it is ORDERED that Defendants' motion *in limine* No. 3 for an adverse inference instruction is DENIED without prejudice to renewal under the circumstances set forth above.

The Clerk of Court is respectfully directed to close the motion at Docket No. 697.

Dated: September 30, 2020
          New York, New York

                                        LORNA G. SCHOFIELD
                                     UNITED STATES DISTRICT JUDGE

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